



**MOTOR VEHICLE INSPECTION AND MAINTENANCE PROGRAM IN CLARK AND
FLOYD COUNTIES**
LSA Document #06-285

Overview

This rule amends 326 IAC 13-1.1 to eliminate the vehicle inspection and maintenance (I/M) program in Clark and Floyd counties in accordance with IC 13-17-5-9.

Citations Affected

Amends 326 IAC 13-1.1-2, 326 IAC 13-1.1-3, and 326 IAC 13-1.1-10.

Affected Persons

The statute that is the basis of this rulemaking affects all drivers that are residents of Clark or Floyd counties, and the contractor that runs the program in those counties. Notification of this rule has been sent to affected parties identified during the course of this rulemaking.

Reason or Reasons for the Rule

The Clark and Floyd Motor Vehicle Inspection and Maintenance program will be terminated under Indiana Code 13-17-5-9, therefore, the state rules are being revised for consistency with the statute.

Economic Impact of the Rule

This rule does not have a fiscal impact on state or local government not already imposed by IC 13-17-5-9. However, elimination of the program will reduce the state's cost for this program by an average of \$770,415 per year.

Benefits of the Rule

Elimination of the Clark and Floyd I/M program will relieve drivers in those counties of having to get their vehicles tested. IDEM has demonstrated that Clark and Floyd counties will

continue to meet the ozone standard without the I/M program.

Description of the Rulemaking Project

The Clark and Floyd I/M program was initiated in 1984 in accordance with the Clean Air Act (CAA) to meet the one-hour ozone national ambient air quality standard. The program was authorized by the Indiana General Assembly under Indiana Code 13-17-5. On July 1, 2003, an amendment to this statute became effective that voids Indiana's I/M rule at 326 IAC 13-1.1 for Clark and Floyd counties after December 31, 2006, and directs the Air Pollution Control Board to amend 326 IAC 13-1.1 to reflect this change unless the State Budget Agency approves a periodic vehicle inspection program for these counties. Because the State Budget Agency has not approved such a program, the I/M program in Clark and Floyd counties will terminate on December 31, 2006.

Though U.S. EPA revoked the one-hour ozone standard, Clark and Floyd counties were designated nonattainment for the eight-hour ozone standard effective June 15, 2004, requiring control measures to remain in place. Monitoring data from 2003-2005 shows that Clark and Floyd counties are now attaining the eight-hour ozone standard, and air quality modeling shows that the area will maintain compliance with the standard in the future even without the I/M program. IDEM has submitted a petition to U.S. EPA requesting that Clark and Floyd counties be redesignated to attainment for the eight-hour ozone standard. IDEM believes the area can remain in attainment without the I/M program because of other reductions that

have been achieved. For example, cars on the road today are much cleaner and emit less ozone precursor pollutants than cars in the past. In addition, oxides of nitrogen (NO_x) reductions from power plants in the last few years under the Indiana NO_x Rule have contributed substantially to cleaner air in Clark and Floyd counties.

IDEM intends to submit revisions from this rulemaking to U.S. EPA for approval into the state implementation plan (SIP). However, before U.S. EPA may approve SIP revisions, Section 110(l) of the Clean Air Act requires a demonstration that the revision will not interfere with any applicable requirement concerning nonattainment, reasonable further progress toward attainment of National Ambient Air Quality Standards (NAAQS), or any other applicable requirement of the CAA. As part of the amendment that will eliminate the I/M program in Clark and Floyd counties, Indiana must make a demonstration under one of two tests:

- (1) that the air pollution reductions associated with the I/M program are not necessary to maintain compliance with the eight-hour ozone standard (through air quality modeling), or
- (2) that there are “equivalent air pollution reductions” at the time of termination that could replace the loss of reductions from the I/M program.

IDEM will make a demonstration under the first test because there is evidence through modeling that the I/M program in Clark and Floyd counties is no longer necessary to maintain compliance with the ozone standard.

IDEM also proposes the deletion 326 IAC 13-1.1-2(g) because there is no longer an I/M program in Jefferson County, Kentucky.

Scheduled Hearings

First Public Hearing: November 1, 2006, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana

Second Public Hearing: February 7, 2007, at 1:00 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- 1) All existing physical conditions and the character of the area affected.
- 2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- 3) Zoning classifications.
- 4) The nature of the existing air quality or existing water quality, as appropriate.
- 5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- 6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

The amended rules are consistent with federal laws, rules, and guidance.

Rulemaking Process

The first step in the rulemaking process is publication of one of three types of notices in the *Indiana Register*. The first type of notice is a first notice of comment period. The first notice of comment period includes a discussion of issues and opens a first comment period. A second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The second type of notice is a section 7 notice. A section 7 notice contains a determination by the commissioner under IC 13-14-9-7 that only one comment period is required. It contains the commissioner’s determination and findings, the draft rule, a request for written comments and a notice of first meeting/hearing. The third type of notice is a section 8 notice. A section 8

notice contains a determination by the commissioner under IC 13-14-9-8 that no public comment periods are required. It contains the commissioner's determination and findings, the draft rule and a notice of first meeting/hearing. In each case the Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. Once final adoption occurs, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Publisher. This rulemaking was initiated with a section 7 notice.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Christine Pedersen, Rule Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).